Medicaid Can Help Couples Pay the Cost of a Spouse's Care in a Medical Facility

Protecting your Income and Assets

DSS

Strong Families - South Dakota's Foundation and Our Future

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Medicaid Can Help Couples Pay the Cost of a Spouse's Care in a Medical Facility

This handbook answers questions on how Medicaid may be able to help a couple pay the cost of a spouse's care in a medical facility. A couple may not have to spend all of their money before the spouse in the medical facility qualifies for Medicaid.

The policies in this handbook apply only if you plan to stay or have stayed in the medical facility 30 days or more and entered after September 30,1989.

Some of the information in this handbook may be hard to understand. If you have any questions, please contact the Division of Economic Assistance at your local Department of Social Services office.

Introduction

Below are some terms you will see throughout this handbook:

Resource Protection: A certain amount of the things owned and the money saved by the couple can be kept by the spouse at home. Resource protection is also referred to as the “protected share”.

Income Allowance: The amount of income that can be protected for the spouse at home.

Community Spouse: The community spouse could live in the couple’s own house or apartment, with relatives, or in other non-facility settings.

Medicaid: A joint federal and state program that can help pay medical bills including cost of care in a medical facility.

Medical Facility: A hospital, nursing home, many assisted living facilities or when receiving certain approved medical services in your home or community.

Long Term Care Partnership Program: The South Dakota Long-Term Care Partnership Program, administered by the Department of Social Services and Division of Insurance, provides an alternative to spending down or transferring assets by forming a partnership between Medicaid and private long-term care insurers.

Introduction

When can Medicaid help?

Medicaid could pay the full facility cost or part of the facility cost depending on your resources and income.

To find out if the spouse in the facility qualifies for Medicaid, individuals should contact their local Department of Social Services (DSS). Phone numbers for the offices can be found in the back of this guide. Most facilities will also have the contact information for the Department of Social Services office serving their facility.

Different Medicaid policies apply for persons who stay less than 30 days or entered before September 30,1989. You need to complete an application form to see if you qualify for Medicaid.

Applications are available at local DSS offices, or by visiting www.dss.sd.gov/formspubs/ and at most medical facilities.

The following pages have information on the resource and income guidelines your DSS Economic Assistance benefits specialist will follow to see if requirements are met for Medicaid to pay toward the cost of care in the medical facility and to establish the amount of the resource protection for the spouse at home.

Resources

What resources can be protected?

When a spouse enters a medical facility on or after September 30, 1989, there are four main steps to determine the resources that can be protected for the spouse at home and when the spouse in the medical facility can qualify for Medicaid.

Resources

1. Total Resources:
If the spouse entering a medical facility (expecting to stay for 30 days or more) is going to need Medicaid now or in the future, the protection of resources for the spouse at home depends on the couple's combined resources as of the day the spouse entered the medical facility.

Because of this, the amount of resources that can be protected should be determined as soon as possible. Your DSS Economic Assistance benefits specialist can give you a form called "Request for Resource Assessment" that you fill out as soon as a spouse enters the medical facility. It is better to fill this form out as soon as possible after entry because it is easier to prove your resources for the day the spouse entered the facility now than at a later date. When you have completed the form, return it to your DSS office. The Economic Assistance benefits specialist will request information and documents to confirm what you have stated on the form. Through a "Notice of Resource Assessment," you will be notified on what resources can be protected; otherwise this information is confidential.

2. Countable Resources:
Resources owned by either spouse, jointly or separately, as of the day of entry into the facility must be counted. Resources will be reported on the "Request for Resource Assessment" form.

Resources counted include, but are not limited to:
Cash, savings and checking accounts, certificates of deposit, stocks and bonds, the cash value of life insurance, annuities, life estates, contracts for the sale of real estate and other financial instruments.

Resources not counted include:
The house the spouse (or dependent relative) lives in, a vehicle, most household goods/personal effects and certain funds designated for burial expenses.

Resources

3. Resources For Each Spouse:

To determine the amount of resources that can be protected for the spouse at home, the amount of your countable resources as a couple is totaled. One-half of the total resources or $20,880*, whichever is greater, can be protected for the spouse at home. However, if half of the resources are more than $104,400*, only $104,400* can be protected for the spouse at home.

You will see several dollar amounts followed by this symbol "*". This means that the 2008 amounts in this document will be indexed for inflation and will change when the federal government releases an annual inflation rate.

The maximum amount of protected share for the spouse at home may be increased by a court order, or by an appeal decision, in order to increase income of the spouse at home. **Note:** Resources given away by either spouse may effect the Medicaid payment to the nursing facility.

4. Medicaid Eligibility:

To determine if the spouse in the medical facility is eligible for Medicaid to help pay medical facility costs, the protected share for the spouse at home is subtracted from the couple's total resources. If the result is $2,000** or less, the spouse in the medical facility meets the resource test for Medicaid to help pay the facility cost.

****Note:** If the spouse in the medical facility has a long term care partnership policy that has paid benefits on his or her behalf, he or she will receive resource protection equal to the amount of benefits paid. The resource test for eligibility is then equal to the amount of benefits paid on his or her behalf plus $2,000.

An application must be completed for DSS to determine Medicaid eligibility. Your DSS Economic Assistance benefits specialist will follow these guidelines to determine the protected share and see if the spouse in the medical facility qualifies for Medicaid.

Resources

Here are some examples that may help you better understand resource protection:

Example: Mr. Erickson entered a nursing home on March 27, 2008. He and his wife together own $200,000 in countable resources. One half of their countable resources is $100,000. Mrs. Erickson living at home, was able to keep $100,000 and the remaining $100,000 was counted for Mr. Erickson. Since resources of $100,000 were counted for Mr. Erickson, his resources exceeded the $2,000 resource limit and he did not qualify for Medicaid payments to the nursing home at this time. **Note:** The $100,000 can be spent down to the $2,000 resource limit by either Mr. or Mrs. Erickson.

Example: Mr. Roth entered a nursing home on May 1, 2008. Mr. and Mrs. Roth together have countable resources of $11,000. All of the resources are protected for Mrs. Roth since total resources are less than $20,880*, and Mr. Roth is resource eligible for Medicaid.

Example: Mrs. Jones entered a nursing home on August 15, 2008. Together she and her husband have $250,000 in countable resources. One half of their countable resources is $125,000. Mr. Jones, living at home is able to keep $104,400*.

The remaining $145,600 is counted for Mrs. Jones. Fortunately, Mrs. Jones also has a Long Term Care Partnership insurance policy which had paid out $144,000 on her behalf before she applied for Medicaid. The amount of benefits her Partnership policy paid on her behalf is disregarded when determining Medicaid eligibility. Mrs Jones is resource eligible for Medicaid at this time as the total resources counted for Mrs. Jones less the amount disregarded due to her Partnership policy is less than $2,000.

Resources

Does it matter whose name the resources are in?

Yes. Once the spouse in the medical facility is eligible for Medicaid, resources must be counted for the spouse who actually owns the resources. Any resources owned by the spouse in the Medical facility that are more than the $2,000 resource limit must be transferred to the spouse at home soon after the spouse in the facility is determined Medicaid eligible. This must be done so the spouse in the facility can remain eligible for Medicaid to pay the cost of the medical facility.

Exception: Resources protected by a Long Term Care Partnership Policy do not have to be transferred to the spouse at home.

Here is an example of resource protection and resource ownership:

Example: Mr. Johnson entered a nursing home on June 2, 2008. He and his wife together have countable resources of $22,000. Even though half of these resources are $11,000, Mrs. Johnson can keep $20,880*. Since only $1,120 needs to be counted as a resource to Mr. Johnson, he could qualify for Medicaid payments to the nursing home. However, Mr. Johnson owns a Certificate of Deposit (CD). In order to remain eligible for Medicaid payments to the nursing home, he must transfer ownership of the CD to his wife so his resources will be within the $2,000 limit. He could transfer all or a part of the CD to his wife. This transfer must be made as soon as possible from approval for Medicaid to ensure continued Medicaid eligibility.

Income

What is the income limit?

The income of the spouse in the medical facility cannot be more than three times the Supplemental Security Income (SSI) benefit for Medicaid to help pay the cost of the facility. (Three times the 2008 SSI benefit is $1,911* per month.) If the income of the spouse in the facility is more than three times the SSI benefit there may still be eligibility if the income is placed in an approved income trust. Visit your local DSS Economic Assistance office for more information on income limits or approved income trusts.

What income can be protected?

Once the spouse living in the medical facility qualifies for Medicaid payments to the facility, his or her income can be protected for the spouse at home. There are three main guidelines to determine what income can be protected.

1. Monthly Income:
The spouse in the medical facility can keep $60 of monthly income for personal needs, plus up to an additional $75 from his or her earned income. The spouse in the facility may use the remaining income as described in 2 and 3.

2. Income Allowance:
An amount of income may be allowed from the income of the spouse living in the medical facility for the spouse at home. The income of the spouse at home is subtracted from $1,750* to determine the amount of income the spouse in the facility can give to the spouse at home. The income allowance may be greater than $1,750* if the spouse at home has shelter expenses in excess of the standard amount or there is a court order or an appeal decision ordering a greater amount. It is possible that the income allowance will be greater than the income available from the spouse in the facility.

An amount of income can also be allowed for certain dependent relatives living with the spouse at home. This amount is determined by subtracting the gross monthly income of each dependent from $1,750* and dividing that amount by three. The spouse in the medical facility must first provide income for the spouse at home before any income can be made available to the dependents.

3. Remaining Income:
The remaining income of the spouse in the facility can be used for certain private health insurance premiums, if any, for him or her. The rest of their income is used toward payment of the cost of care in the facility. Payment to the facility is called a co-payment.

Here are some examples that may help you better understand income protection:

Example: Mrs. Rogers lives in a nursing home with $400 gross income and Mr. Rogers lives at home with $900 gross monthly income. The amount of income allowance that can be protected for Mr. Rogers is determined as follows:

Mrs. Rogers (in facility)

$400	gross monthly income
- $60	personal needs
$340	is available for Mr. Rogers

Mr. Rogers (at home)

$1,750	income allowance
- $900	gross monthly income
$850	could be allowed from Mrs. Rogers' income for Mr. Rogers, but she only has $340 available to give him.

Income

Example: Mr. Smith lives in a nursing home and Mrs. Smith is living at home. Mr. Smith has gross monthly income of $1,300. Mrs. Smith has gross monthly income of $800. The amount of income allowance that can be protected for Mrs. Smith is determined as follows:

Mr. Smith (in facility)

$1,300	gross monthly income
- $60	personal needs
$1,240	is available for Mrs. Smith

Mrs. Smith (at home)

$1,750	income allowance
- $800	gross monthly income
$950	can be allowed from Mr. Smith's income for Mrs. Smith.

Mr. Smith has remaining income of $290 after giving the $950 to Mrs. Smith. ($1,240 minus $950 leaves $290). Of the remaining income, an allowance can be made for Mr. Smith's private health insurance premium or Medicare Part D co-payments, and the remainder would then go to the facility as a copayment for the nursing home services. Co-payment means a spouse in a medical facility shares in the cost of care by paying some of his or her own income to the medical facility. The Division of Economic Assistance determines the amount of co-payment. The income of the spouse at home is NOT used to pay for the cost of care of the spouse in the nursing facility.

Income

Does it matter whose name the income is in?

When income is issued in the name of an individual, it is considered income to that individual. If the income is in the names of both spouses, the income is considered as one half for each spouse. If there is trust property, the income is considered according to the trust document. Examples of income include Social Security and Veteran's pensions and compensations, pensions from employment, etc. If an income allowance is allowed for the spouse at home, the income of each spouse must be established and any changes in income of either spouse must be reported to the Division of Economic Assistance within 10 days of the change. If there is a dependent receiving an income allowance, any changes in his or her income must also be reported within 10 days.

Rights

What are my rights?

If you are dissatisfied with the actions or lack of action by the Division of Economic Assistance, you should discuss the matter with your DSS benefits specialist. If a satisfactory agreement cannot be reached, you have a right to file an appeal and ask for a fair hearing. If you believe more income or resources should be protected for the community spouse to raise the community spouse's income, you have a right to file an appeal 30 days from the date you receive notice of the results of your application for Medicaid assistance. When you appeal the decision this protects your right to a fair hearing. If a hearing is requested, it will be an informal meeting before an administrative law judge from DSS Administrative Hearings in which you can present your complaint. All the facts will be reviewed to see if the decision was correct or should be changed.

Once you or your spouse has been approved for Medicaid, you will continue to have fair hearing rights. If you or your spouse receive a "Notice of Action" that you feel is incorrect, you have 10 days to request a hearing to continue your Medicaid benefits until your appeal is heard or decided.

Responsibilities

What are my responsibilities?

Present your South Dakota Medical Benefits Card each time you request services from a health care provider.

Inform the Department of any changes in the following: address, income or resources, (including transfers and gifting), insurance, and any other changes that may affect your eligibility or amount of benefits. If a spouse or dependents are receiving an income allowance, any change in their income and resources must be reported. Please report any changes within 10 days.

Inform your health care providers of any medical benefits you have (Medicare, insurance, etc).

Notify the Department within 10 days of any changes in your health insurance coverage. You may be required to provide information and proof of any medical insurance or other benefits available to you. File a claim or application for any income or medical benefits that may be available to you. If required, you must also cooperate in the processing of any such application.

Local DSS Offices

MITCHELL
Aurora, Davison, Hanson, Jerauld: 605-995-8000

HURON
Beadle and Hand: 605-353-7105

RAPID CITY
Bennett, Butte,Custer, Fall River, Harding, Jackson, Lawrence, Meade, Pennington, Shannon: 605-394-2525

ABERDEEN
Brown, Day, Edmunds, McPherson, Faulk: 605-626-3160

CHAMBERLAIN
Brule, Buffalo, Gregory, Jones, Lyman, Mellette, Todd, Tripp: 605-734-4500

PIERRE
Campbell, Corson, Dewey, Haakon, Hughes, Hyde, Perkins, Potter, Stanley, Sully, Walworth, Ziebach: 605-773-3612

LAKE ANDES
Charles Mix, Douglas, McCook, Sanborn: 605-487-7607

WATERTOWN
Clark, Codington, Deuel, Hamlin: 605-882-5000

YANKTON
Clay, Lincoln, Yankton, Union: 605-668-3030

REDFIELD
Spink: 605-472-2230

MILBANK
Grant, Marshall, Roberts: 605-432-9588

BROOKINGS
Brookings, Kingsbury, Lake, Miner, Moody: 605-688-4332

SIOUX FALLS
Minnehaha: 605-367-5444

OLIVET
Bon Homme, Hutchinson, Turner: 605-387-4219

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